

UNITED STATES TAX COURT
WASHINGTON, DC 20217

DRC

LAWRENCE W. DOYLE &)	
JOHN F. MOYNIHAN,)	
)	
Petitioners,)	
)	
v.)	Docket No. 4865-19W.
)	
COMMISSIONER OF INTERNAL REVENUE,)	
)	
Respondent)	

ORDER

This is a “whistleblower” case in which petitioner sought but did not receive an “award under I.R.C. section 7632(b) and has now appealed this Court, which has jurisdiction with respect to the “determination regarding the award”. This case is scheduled to be tried at the Court’s session in Washington, D.C., beginning January 13, 2020. On November 14, 2019, the Commissioner filed a motion for summary judgment. The Commissioner’s motion asserts that no trial is necessary in this case, because (the Commissioner says) no relevant facts are in dispute as to that issue. The motion contends that, on the basis of the undisputed facts, the case can be decided in the Commissioner’s favor. The Court will order petitioners Lawrence W. Doyle and John F. Moyinhan, to file a response to the Commissioner’s motion.

If petitioners disagree with the facts set out in paragraphs 6-20 of the Commissioner’s motion for summary judgment, then their response should point out the specific facts in dispute. **Petitioners’ response should state, by number, any assertion with which they disagrees, should explain the reason for their disagreement, and should cite whatever evidence supports their position.** If petitioners disagree with the Commissioner’s argument as to the law (in paragraphs 21-30 of the Commissioner’s motion), then their response should also set out their position on the disputed legal issues. Q&As that the Court has prepared on the subject “What is a motion for summary judgment? How should I respond to one?”

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are available at the Court's website and are printed on the page attached to this order. If petitioners are unsure how to proceed, they should promptly initiate a telephone conference with the Court and the Commissioner by placing a call to the Chambers Administrator of the undersigned judge (at 202-521-0850).

Petitioners should note that Tax Court Rule 121(d) provides, "If the adverse party [i.e., petitioners] does not so respond [to a motion for summary judgment], then a decision, if appropriate, may be entered against such party".

To resolve the Commissioner's motion for summary judgment, it is

ORDERED that, no later than December 6, 2019, petitioners Lawrence W. Doyle and John F. Moyinhan shall file with the Court and serve on the Commissioner a response to the Commissioner's motion for summary judgment. It is further

ORDERED that, no later than December 13, 2019, the Commissioner shall file and serve a reply (or, if petitioners have failed to file and serve a response, then the Commissioner shall file a status report).

(Signed) David Gustafson
Judge

Dated: Washington, D.C.
November 15, 2019

What is a motion for summary judgment? How should I respond to one?

The motion. A motion for summary judgment requests a ruling from a judge on some or all of the issues in a case before trial. If a motion for summary judgment is filed, the judge will review the documents submitted by the parties and consider whether the case can be decided without a trial. The party filing the motion must show that there is no genuine dispute of any important fact and that the party filing the motion is entitled to judgment in their favor as a matter of law. See Rule 121.

Your response. If the Court orders you to file a response to a motion for summary judgment, your response must: specify which factual statements in the motion for summary judgment you dispute, state what you contend the actual facts are, and cite the specific evidence that you rely on to support your factual contentions. That is, you must do more than deny or disagree with the motion. Instead, you must set forth specific facts that establish there is a factual dispute and that a trial is necessary to resolve that dispute. It is not enough merely to claim that a fact is in dispute. You must support your claim that there is a question about a material fact (or facts) by submitting with your response the evidence on which you rely.

Your evidence. Your supporting evidence may include your own sworn affidavit or unsworn declaration given under penalty of perjury. (Form 18, Unsworn Declaration under Penalty of Perjury). Your declaration can state facts about which you have personal knowledge. If your evidence includes documents, then you should submit those with your response (preferably numbered as Exhibits), and your declaration should identify and authenticate those documents. Your supporting evidence may also include other affidavits, stipulations, admissions, answers to interrogatories, or deposition transcripts.

Legal disputes. A motion for summary judgment may involve not only factual disputes but also legal disputes. If you disagree with the IRS's explanation of the law that applies to your case, you should explain your disagreement and cite the statutes, regulations, or other authorities that apply to your case.

Failure to respond. If the IRS files a motion for summary judgment in your case and the Court orders you to file a response, then your failure to file a response may be grounds for granting the motion. See Rules 121(d) and 123(b).

Results of summary judgment. If a motion for summary judgment is granted in favor of the IRS, then there will be no trial, and a judgment will be entered against you. Similarly, if you file a motion for summary judgment and it is granted, then there will be no trial, and a judgment will be entered in your favor.

http://www.ustaxcourt.gov/taxpayer_info_start.htm#START40